

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

DONNIE DIXON,

Plaintiff,

v.

**KEVIN CHILDRESS, AS
ADMINISTRATOR AD LITEM FOR THE
ESTATE OF MICHAEL CAROL KYLE,
SHANE ALLEN, and ALLEN
ENTERPRISES,**

Defendants.

Case No: 2:22-cv-2254

JURY DEMANDED

NOTICE OF REMOVAL

Comes now Defendant, Shane Allen individually and d/b/a Allen Enterprises, by and through the undersigned counsel, and hereby notify the Judges of the United States District Court for the Western District of Tennessee, Western Division, the Clerk of the Circuit Court of Shelby County, Tennessee, and the Plaintiff that the action described herein and filed in the Circuit Court of Shelby County, Tennessee is removed to the United States District Court for the Western District of Tennessee, Western Division pursuant to 28 U.S.C. § 1441.

1. On March 11, 2022, Plaintiff, filed a civil action against Defendants in the Circuit Court of Shelby County, Tennessee bearing civil action CT-0978-22. Service of the Complaint and Summons was made upon Defendant Shane Allen on or about March 22, 2022. Plaintiff subsequently filed an Amended Complaint on April 19, 2022.

2. Plaintiff filed this motor vehicle accident action based upon an accident that occurred in Shelby County, Tennessee on March 16, 2021.

3. A copy of the Complaint and Amended Complaint, being all the papers served upon the Defendant, is attached as **Exhibit A** hereto.

4. Defendant seeks removal of this action to this Court pursuant to 28 U.S.C. § 1332, upon the grounds that the controversy is wholly between citizens of different states and involves an amount in controversy which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of the interest and costs. See 28 U.S.C. § 1332. The Plaintiff's Complaint seeks compensatory damages in the amount of \$300,000.00.

5. Plaintiff is a resident and citizen of Shelby County, Tennessee and was a citizen of the State of Tennessee at the time of the filing of this action and at the time of removal.

6. Defendant Shane Allen individually and d/b/a Allen Enterprises is a resident and citizen of Atalla County, Mississippi and was a citizen of the State of Mississippi at the time of the filing of this action and at the time of removal. Defendant Michael Carol Kyle is deceased, and, thus, Plaintiff filed an Amended Complaint naming the Administrator ad Litem of Michael Carol Kyle's Estate. At the time of the subject accident and at the time of his death Michael Carol Kyle was a resident and citizen of Atalla County, Mississippi. See 28 U.S.C.S. 28(c)(2) ("the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent). Thus, complete diversity exists between the Plaintiff and Defendants.

7. As noted above in Paragraph 4, the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

8. This notice is filed within the time prescribed by 28 U.S.C. § 1446(b).

WHEREFORE, Notice is hereby given that the said civil action is removed from the Circuit Court of Shelby County, Tennessee, to this Court.

Respectfully submitted,

RAINEY, KIZER, REVIERE & BELL, PLC

By /s/ W. Christopher Frulla
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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this pleading or document was served upon counsel for each of the parties by mailing postage prepaid, by delivery to the person or office of such counsel, or by electronic means, as follows:

Geoffrey Lewter
1991 Corporate Ave., Suite 310
Memphis, TN 38132
Attorney for Plaintiff

This the 22nd day of April, 2022.

/s/ W. Christopher Frulla